

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

v.

ORDER
04-CR-83A

BENJAMIN POWELL,

Defendant.

On November 8, 2005, defendant Benjamin Powell, who is proceeding *pro se* in this criminal matter, filed a motion in this Court seeking transcripts and other documents for use in connection with his interlocutory appeal, which is currently pending before the Second Circuit Court of Appeals. See Dkt. No. 74. It appears that the defendant intended to file his motion with the Second Circuit. The motion is addressed to the Circuit Court, and the relief sought relates to his pending appeal.¹ Therefore, the motion is denied without prejudice, and the Clerk of the Court is directed to forward the motion to the Second Circuit Court of Appeals,

¹ As noted, the defendant seeks copies of transcripts and other documents that he feels are necessary to support his pending appeal. The Court notes that many (if not all) of the transcripts sought in the motion have already been prepared and filed. In any event, since the transcripts and documents are being sought for the purposes of supporting the defendant's pending appeal, that motion is more appropriately made to the Second Circuit, as that Court is in a better position to determine whether the documents sought are necessary and relevant to his pending appeal.

along with the government's response which was filed on December 6, 2005.

See Dkt. No. 76.

IT IS SO ORDERED.

/s/ Richard J. Arcara

HONORABLE RICHARD J. ARCARA
CHIEF JUDGE
UNITED STATES DISTRICT COURT

DATED: December 16 , 2005